

# State of Colorado



Bill Ritter, Jr.  
Governor

Rich Djokic  
Board Chair

Kristin F. Rozansky  
Board Director

State Personnel Board  
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## AGENDA PUBLIC BOARD MEETING July 15, 2008

A public meeting of the State Personnel Board will be held on Tuesday, July 15, 2008, at the Colorado State Personnel Board, 633 17th Street, Suite 1400, Courtroom 1, Denver, Colorado 80202-3604. The public meeting will commence at 9:00 a.m.

Reasonable accommodation will be provided **upon request** for persons with disabilities. If you are a person with a disability who requires an accommodation to participate in this meeting, please notify Board staff at 303-866-3300 by July 10, 2008.

### ANNUAL ELECTION OF BOARD CHAIR AND VICE-CHAIR FOR FISCAL YEAR 2008 – 2009

#### I. REPORT OF RICH GONZALES, STATE PERSONNEL DIRECTOR (EXECUTIVE DIRECTOR, DEPARTMENT OF PERSONNEL AND ADMINISTRATION [DPA])

#### II. REQUESTS FOR RESIDENCY WAIVERS

July 1, 2008 Report on Residency Waivers

#### III. PENDING MATTERS

##### A. Retention Area Requests

1. Department of Higher Education and Colorado Historical Society, State Personnel Board case number 2008D002.

#### IV. REVIEW OF INITIAL DECISIONS OR OTHER FINAL ORDERS OF THE ADMINISTRATIVE LAW JUDGES ON APPEAL TO THE STATE PERSONNEL BOARD

There are no Initial Decisions or Other Final Orders of the Administrative Law Judges on appeal to the Board this month.

#### V. REVIEW OF PRELIMINARY RECOMMENDATIONS OF THE ADMINISTRATIVE LAW JUDGES TO GRANT OR DENY PETITIONS FOR HEARING

- A. Judy Wilday-O'Neill v. Department of Human Services, Colorado State Veterans Home at Fitzsimons, State Personnel Board case number 2008G065.

Complainant, a Registered Nurse with the Department of Human Services, Colorado State Veterans Home at Fitzsimons (CSVHF), grieved the imposition of a corrective

action. Upon the appointing authority's upholding of the corrective action, Complainant appealed the final grievance decision to the Board. She argues that the corrective action she received was in retaliation for her disclosure of information to her supervisors about patient care deficiencies and issues regarding violations of proper nursing practices on the part of other staff at CSVHF.

Respondent argues that the Board's review of Complainant's final grievance decision is limited, Complainant's corrective action was not retaliation for making protected disclosures, and the appointing authority's decision to deny the relief requested by Complainant was not arbitrary, capricious or contrary to rule or law

On June 23, 2008, the Administrative Law Judge issued a Preliminary Recommendation, recommending that the petition for hearing be denied.

- B. Lee Burkholder v. Department of Human Services, Trinidad State Nursing Home, State Personnel Board case number 2008G071.

Complainant, the Administrator of the Trinidad State Nursing Home, Department of Human Services, filed a petition for hearing on May 6, 2008, challenging the agency's purported failure to comply with its own final grievance decision (regarding the imposition of a corrective action).

Respondent asserts that Complainant's appeal does not meet the requirements of § 24-50-123(3), C.R.S.; Complainant's appeal allegations are unsupported and not ripe for consideration; and Complainant is not entitled to any relief.

On June 27, 2008, the Administrative Law Judge issued a Preliminary Recommendation, recommending that the petition for hearing be granted.

- C. Kelly Smith v. Department of Corrections, State Personnel Board case number 2008G074.

Complainant appeals the denial of his grievance requesting a new supervisor to conduct the rating on his performance evaluation.

Respondent asserts that Complainant's appeal does not meet the requirements of § 24-50-123(3), C.R.S.; Complainant's appeal allegations are unsupported and not ripe for consideration; and Complainant is not entitled to any relief.

On June 27, 2008 the Administrative Law Judge issued a Preliminary Recommendation, recommending that the petition for hearing be denied.

## **VI. INITIAL DECISIONS OR OTHER FINAL ORDERS OF THE ADMINISTRATIVE LAW JUDGES**

There are no Initial Decisions or Other Final Orders of the Administrative Law Judges before the Board for review this month.

## **VII. REVIEW OF THE MINUTES FROM THE JUNE 17, 2008 PUBLIC MEETING OF THE STATE PERSONNEL BOARD**

## **VIII. ACKNOWLEDGMENTS**

### **DECISIONS OF THE STATE PERSONNEL BOARD MADE AT ITS JUNE 17, 2008 PUBLIC MEETING:**

- A. Retention Area Requests for Department of Higher Education and Colorado Historical Society, State Personnel Board case number 2008D002.

The Board voted to table the Department of Higher Education's request to separate the retention area of the DHE into one area containing the employees of the Colorado Historical Society and a second area containing the employees of the DHE's central staff and the Colorado College Access Network until the July 15, 2008 meeting. The Board's order stated that representatives of the DHE and CHS should be in attendance to respond to any questions from the Board including whether proper notice has been given to all affected employees, pursuant to Board Rule 7-17, 4 CCR 801.

- B. Nadine Roberts-Cornish v. Department of Public Health and Environment, Disease Control & Environmental Epidemiology, State Personnel Board case number 2008G060.

The Board adopted the Preliminary Recommendation of the Administrative Law Judge and granted the petition for hearing based on issues of unlawful discrimination on the basis of race or color and unlawful retaliation.

- C. Joshua Davis v. Department of Corrections, Division of Adult Parole and Community Corrections, State Personnel Board case number 2008G061.

The Board adopted the Preliminary Recommendation of the Administrative Law Judge and granted the petition for hearing on the issue of reviewing the factual basis for Complainant's termination for the purpose of determining whether Complainant's liberty interest in his employment has been harmed and whether his name should be cleared of that termination.

**IX. REPORT OF DAVID KAYE, DIRECTOR OF THE DIVISION OF HUMAN RESOURCES, DPA**

**X. ADMINISTRATIVE MATTERS & COMMENTS**

A. ADMINISTRATIVE MATTERS

- Cases on Appeal to the Board and to Appellate Courts
- Website hits: March – 60,233; April – 55,616; May – 59,688

B. OTHER BOARD BUSINESS

- Staff Activities

C. GENERAL COMMENTS FROM ATTORNEYS, EMPLOYEE ORGANIZATIONS, PERSONNEL ADMINISTRATORS, AND THE PUBLIC

**XI. PROPOSED LEGISLATION AND/OR RULEMAKING**

**XII. EXECUTIVE SESSION**

- A. Case Status Report
- B. Minutes of the June 17, 2008 Executive Session
- C. Other Business

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**NEXT REGULARLY SCHEDULED BOARD MEETINGS - 9:00 a.m.**

<b>August 19, 2008</b>	<b>Colorado State Personnel Board 633 17th Street, Suite 1400, Courtroom 1 Denver, CO 80202-3604</b>
<b>September 16, 2008</b>	<b>Colorado State Personnel Board 633 17th Street, Suite 1400, Courtroom 1 Denver, CO 80202-3604</b>
<b>October 21, 2008</b>	<b>Colorado State Personnel Board 633 17th Street, Suite 1400, Courtroom 1 Denver, CO 80202-3604</b>
<b>November 18, 2008</b>	<b>Colorado State Personnel Board 633 17th Street, Suite 1400, Courtroom 1 Denver, CO 80202-3604</b>
<b>December 16, 2008</b>	<b>Colorado State Personnel Board 633 17th Street, Suite 1400, Courtroom 1 Denver, CO 80202-3604</b>
<b>January 20, 2009</b>	<b>Colorado State Personnel Board 633 17th Street, Suite 1400, Courtroom 1 Denver, CO 80202-3604</b>
<b>February 17, 2009</b>	<b>Colorado State Personnel Board 633 17th Street, Suite 1400, Courtroom 1 Denver, CO 80202-3604</b>
<b>March 17, 2009</b>	<b>Colorado State Personnel Board 633 17th Street, Suite 1400, Courtroom 1 Denver, CO 80202-3604</b>
<b>April 21, 2009</b>	<b>Colorado State Personnel Board 633 17th Street, Suite 1400, Courtroom 1 Denver, CO 80202-3604</b>
<b>May 19, 2009</b>	<b>Colorado State Personnel Board 633 17th Street, Suite 1400, Courtroom 1 Denver, CO 80202-3604</b>
<b>June 16, 2009</b>	<b>Colorado State Personnel Board 633 17th Street, Suite 1400, Courtroom 1 Denver, CO 80202-3604</b>